**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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| In re Application of | Docket No.: **TI-36097** |
| **Anuj Batra** | Examiner: **Ahn, Sam K.** |
| Serial No.: **10/782,095** | Art Unit: **2611** |
| Filed: **02/19/2004** | Conf. No.: **4758** |

For: **PREAMBLE FOR A TFI-OFDM COMMUNICATIONS SYSTEM**

**RESPONSE TO ELECTION REQUIREMENT**

Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

In response to the Election Requirement dated April 23, 2007, Applicants hereby provisionally elect Invention I (Claims 1-38).

Applicants make this election with traverse since Examiner has set forth no determination that a search and examination of all of Claims 1-57 cannot be made without serious burden.

MPEP 803 specifically states:

> If the search and examination of all the claims in an application can be made without serious burden, the **examiner must examine them**

**on the merits, even though they include claims to independent or distinct inventions.**

While Examiner states that subcombination Group II of Claims 39-57 has separate utility such as distinguishing multiple piconets using any type of preamble other than the preamble of Group I through a first and second despreaders, the only reason set forth for the search being a serious burden on Examiner is that "the inventions have acquired a separate status in the art in view of the different classification".

Applicants further point out that while Examiner states it would be a "serious burden" to search both search fields Class 375 subclass 147 and Class 375 subclass 375, Examiner has searched both fields on at least four issued US patents: (1) U.S. 7,177,343 – Compound Chirp and Synchronizer for Using Same, issued February 13, 2007; (2) U.S. 7,110,474 – Method for Determining a Boundary of an Information Element, a System, and an Electronic Device, issued September 19, 2006; (3) U.S. 7,110,438 – Method and Apparatus for Cell Search for W-CDMA With Non-ideal Sampling; and (4) U.S. 6,996,162 – Correlation Using Only Selected Chip Position Samples in a Wireless Communication System, issued February 7, 2006. Examiner provides no reason why he examined both fields in the above-issued applications but cannot, or will not, do the same for the present application.

Accordingly, Examiner has provided no evidence whatsoever that it would be a "SERIOUS burden" on the Examiner to concurrently search the two inventions of Group I and II even if they have acquired a separate status in the art in view of different classification. As such, Examiner's determination does not rise to the level

of presenting a prima facie case that the inventions are distinct from each other. The restriction requirement is improper and must be withdrawn.

Respectfully submitted,

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